

CHRISTINE SCACCIA

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1 previously marked as Exhibit 9 dated  
2 12/19/07.

3 MR. ZUCKERMAN: It's Plaintiff's  
4 Exhibit 9 at the 12/19/07 deposition?

5 MR. JOSEPH: Yes.

6 MR. ZUCKERMAN: So at least we  
7 know what document we're talking  
8 about.

9 A. okay.

10 Q. Were you aware at the time  
11 Terrance Alston testified before the grand  
12 jury, were you aware that he had told  
13 detectives that this conversation occurred  
14 sometime in August of 2000?

15 A. Yes.

16 Q. Did you bring it to the grand  
17 jury's attention that Mr. Alston had given  
18 dates three months apart that this very  
19 alleged conversation occurred?

20 A. I was aware of this DD5. Can I  
21 just look at one thing?

22 Q. Sure. Take your time.

23 A. I was aware that this DD5 existed  
24 and DD5 said August of 2000.

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1           Q.     Did you ever bring it to the grand  
2         jury's attention that Mr. Alston had told  
3         the detective that this alleged  
4         conversation occurred three months earlier  
5         in August of 2000?

6           A.     No.

7           Q.     Did you consider Mr. Alston's  
8         grand jury testimony inconsistent with what  
9         he told Detective Ramos on February 14,  
10         2001?

11          A.     No. Because that DD5 is basically  
12         a sum and substance of the conversation  
13         Detective Ramos had with Mr. Alston. Prior  
14         to Mr. Alston going into the grand jury, I  
15         would have had a fairly extensive  
16         conversation with him and went over things  
17         in much more detail that wouldn't be  
18         reflected in the DD5. So, no, I didn't see  
19         it as a problem.

20          Q.     Was Mr. Alston's grand jury  
21         transcript ever provided to  
22         Mr. Manganiello's defense lawyers?

23          A.     I don't recall if I just turned  
24         over the entire set of grand jury minutes



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1 or if I took Mr. Alston's testimony out  
2 because he was obviously not going to be a  
3 witness at trial.

4 Q. At the point in time when  
5 Mr. Alston came forward, had he been  
6 indicted for attempted murder and robbery  
7 in the first degree?

8 A. He was in on something, but I  
9 don't remember if it was a robbery or an  
10 attempted murder. I don't know what the  
11 charge was.

12 Q. Let me show you Exhibit 30 and ask  
13 you if you recognize Exhibit 30.

14 A. I recognize what Exhibit 30 is.

15 MR. ZUCKERMAN: Exhibit 30 at a  
16 deposition of 1/30/08.

17 Q. I apologize. I should have said  
18 that.

19 A. I recognize what this document is,  
20 I don't have any recollection of reading  
21 this in connection with my dealings with  
22 Mr. Alston.

23 Q. What do you recognize Exhibit 30  
24 to be?



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1           A. It's an indictment, Bronx County  
2        indictment against Mr. Alston for attempted  
3        murder and unrelated charges.

4           Q. At the point in time Mr. Alston  
5        testified before the grand jury, were you  
6        aware that he had been indicted for  
7        attempted murder and robbery in the first  
8        degree?

9           MR. ZUCKERMAN: Objection, I think  
10       she answered that.

11          Q. I'm asking her what her awareness  
12       is.

13          A. Well, this is a 1998 indictment.  
14        I can say that I was aware that Mr. Alston  
15       was incarcerated, and I can say that I was  
16       aware that he had a criminal record. I  
17       don't know if this is the indictment that  
18       resulted in him still being at Rikers in  
19       2001 when I met him.

20          Q. Do you know if -- prior to  
21       Mr. Alston testifying before a grand jury,  
22       did you ever do what's called a credibility  
23       check on him?

24          A. I don't know what that is.



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1 Q. Did you ever look at Mr. Alston's  
2 criminal record prior to allowing him or  
3 putting him before the grand jury?

4 A. I had I'm sure Mr. Alston's rap  
5 sheet but that is not at all a credibility  
6 check.

7 Q. Did Detective Parker ever discuss  
8 getting Mr. Alston released from custody  
9 with you?

10 MR. ZUCKERMAN: Object to form.

11 A. I don't know if Detective Parker  
12 -- there was a discussion between myself  
13 and Detective Parker involving Mr. Alston  
14 being out of custody. Because once he was  
15 released from custody he was -- he had to  
16 check in and abide by certain rules, for  
17 lack of a better word, that had been set up  
18 for him.

19 Q. When was it that Mr. Alston was  
20 released from custody?

21 A. I have absolutely no recollection  
22 of that.

23 Q. Was it prior to Anthony  
24 Manganiello being arrested in April of

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1 2001?

2 A. I don't know.

3 Q. Do you know whether, I'm sorry, do  
4 you know whether Terrance Alston finished  
5 and completed his sentence prior to him  
6 getting out of jail?

7 MR. ZUCKERMAN: Object to form.

8 A. I would have to look at actual  
9 court records, but I think that he had  
10 ended up taking an open plea on a case.

11 Q. And what does that mean?

12 A. It meant that he was being  
13 released and was going to get consideration  
14 for his case, but that if he screwed up,  
15 violated his cooperation agreement or  
16 continued to get into trouble, that he  
17 would just be sentenced on the case and  
18 there would be no trial on it. I think  
19 that's what it is and that's my best  
20 memory. I would be able to tell you  
21 looking at court records for sure.

22 Q. When you say "consideration for  
23 the case," what do you mean by that?

24 A. He would get time off for



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1       cooperating.

2           Q.    Okay.  And did he receive -- what  
3       exactly was Mr. Alston -- strike that.

4                   what was the nature of  
5       Mr. Alston's cooperation for which he was  
6       going to receive time off?

7           A.    Well, part of it was his  
8       cooperation on this case.  Mr. Alston did  
9       have other, what I perceived to be relevant  
10      information, because he was -- he did have  
11      a criminal history.  He was involved in  
12      criminal activity and had knowledge of the  
13      Blood's gangs and a number of things that  
14      he would be considered available to  
15      cooperate on.  But this is the only case  
16      that I know of that he ever testified on.

17           Q.    And was the jury -- was the grand  
18      jury ever made aware that Terrance Alston  
19      was given time off in exchange for his  
20      testimony?

21           A.    There was -- I don't know the  
22      answer to that.  There were motions about  
23      that and I know that ultimately the motions  
24      were denied, but I don't remember what or



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1 where.

2 Q. I'll get to the motions in a  
3 couple of seconds, I'm just asking you now

4 --

5 A. I don't know is my answer.

6 Q. And what consideration  
7 specifically was Mr. Alston given in  
8 consideration for his cooperation?

9 A. The only consideration that he was  
10 able to get was that he had been released  
11 from prison at some point, and he was at  
12 liberty from whatever his release date was  
13 until -- like July 5th of 2001 or July 1st  
14 of 2001 when he was killed. So not much  
15 consideration.

16 Q. Can you tell me how this agreement  
17 came about? How did Mr. Alston become --  
18 get released, so to speak, early?

19 MR. ZUCKERMAN: Object to form.

20 Q. I'll rephrase it. Can you tell me  
21 who was involved in the decision to allow  
22 Mr. Alston to be at liberty?

23 MR. ZUCKERMAN: Object to form.

24 A. Me.

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1 Q. Was anyone else?

2 A. I'm sure his attorney at the time.

3 Q. Did you ever have discussions --

4 strike that.

5 How did it -- did Detective Parker  
6 ever speak with you about Mr. Alston  
7 getting time off in exchange for being a  
8 witness or for producing witnesses?

9 MR. ZUCKERMAN: Object to form.

10 A. Not that I remember.

11 Q. Did Detective Agostini ever speak  
12 to you concerning Mr. Alston getting time  
13 off in exchange for providing cooperation  
14 in this case?

15 A. Are you asking are they talking to  
16 me on his behalf like a proponent of  
17 getting him time off? Because that I could  
18 say no to.

19 There was discussion about him  
20 getting out and me entering a plea  
21 negotiation with the witness because it was  
22 just part of the prosecution. But not them  
23 asking me, can you get Terrance out?

24 Q. Well, what conversation did you



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1 have, and we'll start with Mr. Parker.  
2 what conversation did you have with  
3 Mr. Parker concerning Terrance Alston being  
4 at liberty?

5 A. At some point I probably informed  
6 him that I was going to use him. I was  
7 going to enter a cooperation agreement with  
8 him and make a deal, and that once he was  
9 out on the street, Detective Parker was, I  
10 believe, his handler, his point person to  
11 keep in contact with.

12 MR. ZUCKERMAN: I need to use the  
13 men's room. Just a few minutes.

14

15 (Short recess was taken.)

16

17 Q. As part of this cooperation  
18 agreement, was Mr. Alston released from  
19 custody in exchange for his testimony  
20 against Anthony Manganiello?

21 MR. ZUCKERMAN: Object to form.

22 A. That was one of the reasons behind  
23 his release, yes.

24 MR. JOSEPH: Let's have this



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1 marked as today's date Exhibit 2.

2

3 (Scaccia Exhibit 2, MOTION, was  
4 marked for identification.)

5

6 Q. I'll show you what has been marked  
7 as Exhibit Number 2 and ask you if you  
8 recognize this document.

9 A. Okay.

10 Q. Do you recognize Exhibit Number 2?

11 A. It is a motion that was filed by  
12 my, at the time, bureau chief, Mary  
13 D'Andrea, in response to defendant's  
14 omnibus motion.

15 MR. ZUCKERMAN: Did you identify  
16 this?

17 A. He did.

18 Q. Now, directing your attention to  
19 the last sentence, number three, did the  
20 former bureau chief Ms. Andrea make a  
21 representation to the Court that the  
22 cooperation agreement was not to ensure  
23 Mr. Alston's testimony in the Manganiello  
24 case?



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1           A. Just so it's clear, D'Andrea is  
2       the last name. The agreement was not made  
3       to ensure his testimony in this case but --

4           Q. For the record you're reading from  
5       a document at this point?

6           A. Yes, that's what it says. "The  
7       agreement was not made to ensure his  
8       testimony in this case."

9           Q. Was that document -- was  
10      Ms. D'Andrea's representation to the Court  
11      accurate?

12          A. Yes.

13           MR. ZUCKERMAN: Object to the  
14       form.

15          Q. Do you wish to revise your answer  
16       after reading the document?

17          A. No.

18          Q. Was Mr. Alston released prior to  
19       his testifying before the grand jury?

20          A. As I think I stated before, I  
21       don't remember the date he was released.

22          Q. Do you have a recollection as to  
23       whether it was after his grand jury  
24       testimony that Mr. Alston was released?



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1 A. I don't remember.

2 Q. okay. was Mr. Alston provided  
3 immunity in exchange for his testimony  
4 against Anthony Manganiello?

5 MR. ZUCKERMAN: Object to form.

6 Q. Let me rephrase it.

7 Did Mr. Alston ever waive his  
8 immunity testifying before the grand jury?

9 A. He did not go into the grand jury  
10 under a waiver of immunity if that is what  
11 you're asking.

12 Q. Is there any reason -- strike  
13 that.

14 Did you have DD's in which  
15 Mr. Alston agreed to commit a murder for  
16 hire?

17 MR. ZUCKERMAN: Object to form.

18 A. we have DD5's that indicated that  
19 Mr. Alston said he was willing to commit a  
20 murder for hire, but I don't think that it  
21 ever reached the interaction where an  
22 agreement as to who, when and how much was  
23 ever made.

24 Q. Was Mr. Alston -- I believe you



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1       testified earlier, that Mr. Alston was  
2       provided a key, correct, for which to  
3       utilize?

4           A.    Yes.

5           Q.    Would you consider taking a key an  
6       act in furtherance of a conspiracy to  
7       commit murder?

8           MR. ZUCKERMAN:  Are you reading  
9       something from a document?

10          MR. JOSEPH:  No.  I'm refreshing  
11       my memory.

12          MR. ZUCKERMAN:  I object to form.

13          A.    I mean it would be considered an  
14       act, but I don't think that that would  
15       be -- I don't think it would rise to the  
16       level of a conspiracy at that point.

17          Q.    Would you consider Mr. Manganiello  
18       asking or allegedly asking Terrance Alston  
19       to commit a murder, and Mr. Alston agreeing  
20       to do it for money to be a conspiracy?

21          MR. ZUCKERMAN:  Object to form.

22          A.    I think that there would have to  
23       be an act in furtherance of that conspiracy  
24       before I can say yes.



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1 Q. And would taking a master key to a  
2 building where the murder was allegedly  
3 going to occur be an act of furtherance?

4 A. From my understanding it was the  
5 key to an area that was just not available  
6 to the public. I don't think a time and  
7 place had been set for the murder. It's  
8 not like he gave him a key to apartment 5J,  
9 which I'm completely making up, and said go  
10 there on such and such a day and commit the  
11 murder.

12 Q. Was Mr. Alston ever prosecuted for  
13 agreeing to commit a murder for hire?

14 MR. ZUCKERMAN: In this case?

15 Q. Correct.

16 A. No.

17 Q. By the way, were you aware that  
18 Detective Agostini said he had concerns  
19 about Mr. Alston's credibility?

20 A. No, not that I can remember.

21 Q. Did Mr. Agostini ever voice  
22 concerns to you concerning Mr. Alston's  
23 credibility?

24 A. I don't remember, no. I shouldn't



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1 say, no, I don't remember is my answer.

2 Q. Were you ever made aware that  
3 Mr. Alston didn't want witnesses that he  
4 was producing interviewed outside of his  
5 presence?

6 MR. ZUCKERMAN: Object to form.

7 Do you understand?

8 A. I understand it, I'm trying to  
9 think. The only context that I can think  
10 of that coming up with, was the kid who he  
11 had told Detective Agostini about,  
12 originally, and I don't remember the kid's  
13 true name that's why I'm calling him the  
14 kid. And I think it was only said in the  
15 context of, he will be okay if he knows I'm  
16 here, meaning like he's not going to get in  
17 trouble, and this isn't just some lie that  
18 the detectives are telling him. But I  
19 don't remember him.

20 First of all, I would not allow a  
21 witness to insist on being present for the  
22 interview of another witness. It's not a  
23 good practice.

24 Q. Was Terrance Alston ever present



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1 for the interview of a witness whom he  
2 produced?

3 A. He never produced anybody. I  
4 don't know if he was there for an initial  
5 introduction when that kid came in, I don't  
6 remember.

7 Q. Now, did Terrance Alston ever say  
8 he would produce a witness that sold a gun  
9 to Anthony Manganiello in exchange for  
10 being released from prison?

11 A. No, not produce.

12 Q. Well --

13 A. Give information about assisting  
14 detectives in finding him, yes. Producing  
15 as if he had control exclusively over this  
16 person, no.

17 Q. Did Mr. Alston say that he would  
18 provide detectives with a witness who would  
19 say that he sold Anthony Manganiello a gun  
20 if he was released?

21 MR. ZUCKERMAN: Object to form.

22 A. I don't remember the -- if he was  
23 released conditions being placed on it.

24 Q. Did Mr. Alston subsequently come



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1 up with a witness named Mark Damon who said  
2 that he sold Anthony Manganiello a gun?

3 A. Mark Damon came up, yes.

4 Q. And did Mark Damon -- strike  
5 that.

6 Did Terrance Alston produce Mark  
7 Damon?

8 MR. ZUCKERMAN: Object to form.

9 Q. How did you come in contact with  
10 Mark Damon?

11 A. I don't know if Mark Damon arrived  
12 at my office on his own or with the police,  
13 but eventually Mr. Alston did give the  
14 police Mark Damon's contact information.

15 Q. Did Mr. Alston arrive at your  
16 office with Mr. Damon?

17 A. I don't remember when that meeting  
18 took place. I don't know if Mr. Alston was  
19 in custody or out, and if he was in, the  
20 answer would certainly be no, and if he was  
21 out, I don't remember.

22 Q. Did you interview Mr. Damon in  
23 Mr. Alston's presence?

24 A. I think that Mr. Alston may have



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1       been present, like I said, for introduction  
2       purposes. I do not remember conducting an  
3       interview with them both there.

4                    MR. JOSEPH: Let's have this  
5       marked as 3.

6

7                    (Scaccia Exhibit 3, DD5 DOCUMENT  
8       was marked for identification.)

9

10          Q. I'll show counsel and I'll show  
11       you what has been marked as Scaccia 3 with  
12       today's date, May 2nd, 2008.

13          MR. ZUCKERMAN: Where is number 2  
14       because we need copies of this?

15          Q. Have you seen this document  
16       before?

17          A. At some point I have, yes.

18          Q. Is this DD5 document documenting a  
19       meeting between you, Mr. Alston, Mr. Damon  
20       and Mr. Agostini and Mr. Parker?

21          A. It is -- I'm sorry, say that  
22       again. Is it a DD5 concerning a meeting  
23       between myself, Agostini and Parker, is  
24       that what you just said?



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1 Q. And Damon and Alston also.

2 Read back the whole question.

3

4 (Requested question was read back

5 by the court reporter.)

6

7 A. This does not refresh my  
8 recollection as to who was present during  
9 what portion of this meeting. At some  
10 point all of the people named in this  
11 report were present in my office. As I  
12 said, I didn't think that -- Mr. Alston may  
13 have been there for introduction purposes,  
14 but I don't recall Mr. Alston being present  
15 when I interviewed a witness in the case.

16 Q. If Mr. Alston was present on April  
17 5th, 2001, does that mean Mr. Alston would  
18 have been out of custody at this point?

19 MR. ZUCKERMAN: Object to form.

20 A. No.

21 Q. Directing your attention to number  
22 2, does it say during the above interview  
23 the following persons were present and is  
24 Mr. Alston listed?



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1 A. It is but that's a report prepared  
2 by Detective Agostini. And, again, it's a  
3 summary of what took place that day, not a  
4 moment by moment account.

5 Q. Were you ever aware -- did  
6 Mr. Agostini ever raise a concern to you  
7 that Mr. Alston did not want Mr. Damon to  
8 be interviewed outside of his presence?

9 A. I don't remember that.

10 Q. By the way, were you aware of a  
11 Verizon employee named Mr. Huello,  
12 H-u-e-l-l-o?

13 A. Yes.

14 Q. When did you first become aware of  
15 statements given by Mr. Huello?

16 MR. ZUCKERMAN: Object to form.

17 A. I would say whatever DD5  
18 interviews were done with him during the  
19 day of the incident came into my  
20 possession, or I at least read them in the  
21 immediate days following the incident.

22 Q. Was Mr. Huello ever presented to  
23 the grand jury?

24 A. No, he was not.

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1 Q. And was there a reason he was not?

2 A. No.

3 Q. Did Mr. Huello provide a statement  
4 which contradicted what Mr. Cobb had said?

5 A. I don't remember what Mr. Huello  
6 said. To tell you the truth, I remember  
7 where he was and what he was doing, but the  
8 context of what he said, I don't remember.

9 Q. Do you have a recollection of him,  
10 Mr. Huello, stating that he was across from  
11 the room where Mr. Acosta was found at the  
12 point in time when Mr. Cobb entered the  
13 basement and he heard no shots and did not  
14 see Mr. Manganiello?

15 A. He does say that and there was an  
16 explanation behind it too, now that I  
17 recall. He was saying that there was some  
18 sort of noise factor going on and he was in  
19 a room at one end of the basement. Again,  
20 you're saying directly across from. I  
21 don't know if it was directly across from.  
22 And, yeah, he says he doesn't hear  
23 anything.

24 Q. And did he also say he didn't see



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1 Mr. Manganiello at all at that point?

2 A. He didn't see anyone. I think how  
3 he becomes aware of it is that he has  
4 interaction with Cobb in the basement, and  
5 when Mr. Cobb runs outside to make the  
6 phone call to the police, I think he sees  
7 the Verizon van pulling away or making a  
8 U-turn or something and flags him down.

9 Q. By the way -- withdrawn.

10 When you presented the case to the  
11 District Attorney, did Sergeant Ohle  
12 testify?

13 A. You mean when I presented it to  
14 the grand jury?

15 Q. Yes.

16 A. No, he did not testify to the  
17 grand jury.

18 Q. Were you aware that Sergeant Ohle  
19 gave a statement in which he says he  
20 brought -- that one of his officers was  
21 down over the Parkchester security radio  
22 system?

23 A. I believe that was a point that  
24 was litigated during the course of the



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1 trial. I don't remember who called him at  
2 trial, but I think he did testify  
3 actually.

4 Q. Was the grand jury ever made aware  
5 that Mr. Ohle had broadcast the identity of  
6 the Parkchester -- strike that. The victim  
7 as a Parkchester security guard?

8 MR. ZUCKERMAN: I'm sorry. Can  
9 you read that back, please?

10

11 (Requested question was read back  
12 by the court reporter.)

13

14 MR. ZUCKERMAN: Object to form.

15 You can answer.

16 A. The sergeant did not testify at  
17 the grand jury, therefore, there was no way  
18 of eliciting that information.

19 Q. Was there any reason why he was  
20 not called?

21 A. There was no need to call him.

22 Q. Now, did you elicit testimony from  
23 an officer Nieves that when Mr. Manganiello  
24 arrived it was unknown that the victim was



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1 a Parkchester security guard?

2 A. If that's what Officer Nieves'  
3 testimony states, that was according to  
4 her.

5 Q. Did you also elicit testimony from  
6 Ms. Perez that it was not known that the  
7 victim was a Parkchester security officer  
8 at the point in time that Mr. Manganiello  
9 arrived?

10 A. Actually I think between Perez and  
11 Nieves --

12 MR. ZUCKERMAN: Take your time and  
13 review what you need to answer the  
14 question.

15 MR. JOSEPH: Take your time and  
16 I'll take a two minute break.

17  
18 (Short recess was taken.)  
19

20 A. Both Officer Nieves and Officer  
21 Perez state that they do not know when they  
22 are responding to the location whether it  
23 was a NYPD officer or Parkchester  
24 security. But both say at some point that



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1       while they're in the basement they realize  
2       that it's Parkchester security. I think  
3       one of the officers said that she  
4       recognized him from seeing him around as a  
5       Parkchester security officer.

6           Q. And was that testimony elicited  
7       for the purpose of inferring that Anthony  
8       Manganiello had some guilty knowledge  
9       because he allegedly made a statement to  
10      Officer Perez that it was his partner  
11      inside of the room?

12           MR. ZUCKERMAN: I object to the  
13       form. You can answer if you can.

14           A. That information was elicited  
15       because of a variety of reasons. But the  
16       short version is, yes, I do think that it  
17       tended to inculpate him in the shooting of  
18       Acosta.

19           Q. Was the grand jury ever informed  
20       that Sergeant Ohle had broadcast the  
21       identity of the victim over the Parkchester  
22       radio system prior to Mr. Manganiello's  
23       arrival?

24           A. Once again, Sergeant Ohle did not



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1 testify, so that information did not come  
2 out. And the fact that information about  
3 it being Albert Acosta in the basement  
4 being broadcast over the air would only be  
5 relevant if it was broadcast before Anthony  
6 Manganiello responded to that basement.

7 At some point Parkchester is well  
8 aware that it is Acosta on the floor. So,  
9 as I sit here today, I don't remember the  
10 time sequence of those transmissions. I  
11 only know what had taken place.

12 Q. Let me see if I can clarify one  
13 point of your answer. As you sit here  
14 right now, do you recall whether Sergeant  
15 Ohle had made the broadcast that it was one  
16 of his officers or Albert Acosta prior to  
17 Mr. Manganiello's arrival, do you have a  
18 memory one way or another?

19 A. I do not. I know that that  
20 information went out. I cannot sit here  
21 and tell you that it went out either before  
22 or after, I don't have a recollection of  
23 that.

24 Q. How did you become aware of



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1 Mr. Booth's existence?

2 A. It was from a police source. I  
3 don't know how he was discovered. I don't  
4 know if he reached out for the officers or  
5 if they had a tip or if it was done during  
6 a canvass, I don't know. Or if he, you  
7 know, got in trouble and decided to give  
8 information.

9 MR. JOSEPH: Let's have this  
10 marked as Exhibit 4. For the record,  
11 I'm marking a three-page document.

12

13 (Scaccia Exhibit 4, THREE-PAGE  
14 DOCUMENT, was marked for  
15 identification.)

16

17 Q. I'll show you and your counsel  
18 what has been marked as Exhibit 4 of  
19 today's date.

20 A. Okay.

21 Q. Do you recognize Exhibit Number 4?

22 A. I recognize it to be a DD5  
23 prepared in conjunction with this case.

24 Q. After reviewing Exhibit 4, does it



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1 refresh your recollection as to how  
2 Mr. Booth came to your attention?

3 A. As I said, it's because the  
4 detectives brought him to my attention.  
5 How he came in contact with the detectives  
6 still is not clear, because I don't know if  
7 they had -- it says they met in front of  
8 the pizza store. I don't know if they were  
9 there on a canvass, or if one of the  
10 detectives knew him, or if he had called  
11 the detectives. I don't know the answer to  
12 that.

13 Q. Let me take one step back to  
14 Mr. Alston. Were you the Assistant  
15 District Attorney in charge of prosecuting  
16 Mr. Alston's case?

17 A. When he incurred his cases, no.  
18 After I entered an agreement with him,  
19 yes.

20 Q. And would it be fair to say that  
21 you became the Assistant District Attorney  
22 in charge of Mr. Alston, prosecuting  
23 Mr. Alston's case as a result of his  
24 testimony in Anthony Manganiello's case?



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1           A.    Well, it's a result of him  
2           cooperating. One, I wanted to make the  
3           deal, I took the case and made the deal.

4           Q.    And what was the deal exactly?

5           A.    I have no recollection. I mean I  
6           read response to motion papers that  
7           indicated he pled guilty to four years and  
8           was going to do that, and he was being  
9           released for a period of time and going  
10          back into custody. But other than that,  
11          refreshing my recollection, I don't know.

12          Q.    Now, were you ever made aware of  
13          any criminal activity in which Mr. Booth  
14          was engaged by the detectives?

15          A.    I think it was Mr. Manganiello's  
16          attorney who told me that Mr. Booth was  
17          engaged in criminal activity.

18          Q.    But did, for example, did  
19          Mr. Agostini ever advise you that Mr. Booth  
20          was a bookie?

21          A.    Again, I knew that information, I  
22          don't know if the detective knew it as  
23          well. But I do remember Mr. Richmond, who  
24          represented Mr. Manganiello at trial, I



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1 think at one time represented Mr. Booth.

2 Q. Just so I'm clear, I'm trying to  
3 focus my questions on what the detectives  
4 told you.

5 A. I know that information, I don't  
6 know from what source. It could have been  
7 from multiple sources that I knew that  
8 information.

9 Q. Did Detective Agostini ever advise  
10 you that upon bringing Mr. Booth back to  
11 the police station he searched Mr. Booth  
12 and found a knife and gambling materials  
13 which contained names and debts owed?

14 A. I don't remember that information  
15 being relayed. I'm not saying it didn't  
16 happen, I just have no recollection of it.

17 Q. Okay. Do you have any  
18 recollection of the gambling paraphernalia  
19 disappearing after Mr. Booth signed a  
20 statement against Anthony Manganiello?

21 MR. ZUCKERMAN: Object to form.

22 A. Disappearing, no. I had no -- I  
23 have no recollection that Mr. Booth was in  
24 custody, was about to be placed into



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1 custody or any such thing. So, I don't.

2 Q. Did you ever have any knowledge  
3 about Mr. Booth being threatened with  
4 criminal charges unless he signed a  
5 statement against Anthony Manganiello?

6 MR. ZUCKERMAN: Object to form.

7 Q. I'll rephrase it.

8 Do you have any knowledge of  
9 Mr. Booth -- strike that.

10 Do you have any knowledge as to  
11 whether Detective Agostini told Mr. Booth  
12 that he would pass his name and gambling  
13 paraphernalia found on Mr. Booth to  
14 organized crime unless he signed a  
15 statement against Anthony Manganiello?

16 MR. ZUCKERMAN: Object to form.

17 Q. My question is, were you ever  
18 advised of that?

19 MR. ZUCKERMAN: Object to form.

20 A. Actually, if Mr. Booth had such  
21 items on him, I don't think that organized  
22 crime figures would be surprised to know  
23 that, since generally gambling is  
24 associated with people in organized crime.

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1 And, really, I don't ever remember hearing  
2 from anyone that Mr. Booth was threatened  
3 with prosecution for possessing gambling  
4 slips, nor do I think that that would have  
5 been enough of an incentive to sign a  
6 statement in Bronx County.

7 Q. My question is, were you ever  
8 informed --

9 A. No.

10 Q. Let me finish my question.

11 A. Sorry.

12 Q. Were you ever informed that  
13 Detective Agostini threatened to pass  
14 Mr. Booth's name and the materials found on  
15 him to the organized crime division if he  
16 did not sign a statement?

17 MR. ZUCKERMAN: Object to form.

18 A. No.

19 Q. Did you ever learn that the  
20 gambling paraphernalia which Mr. Agostini  
21 found on Mr. Booth's person disappeared  
22 after the statement was signed?

23 MR. ZUCKERMAN: Object to form.

24 A. I never knew there was any, so,

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1 no.

2 Q. Did you ever authorize Detective  
3 Agostini to withhold evidence found on  
4 Mr. Booth's person from any law enforcement  
5 entities in exchange for his statement or  
6 testimony against Anthony Manganiello?

7 MR. ZUCKERMAN: Object to form.

8 A. No.

9 Q. Did the detectives ever tell you  
10 that they gave Mr. Booth -- strike that.

11 Did Detective Agostini ever --  
12 strike that.

13 Did Detective Agostini or  
14 Detective Martinez ever advise you that  
15 they gave Mr. Booth Mr. Manganiello's name?

16 MR. ZUCKERMAN: Object to form.

17 A. That they gave him his name? I'm  
18 not sure what you mean by that, Counsel.

19 Q. Did Detective Agostini or  
20 Detective Martinez ever advise you that  
21 Mr. Booth did not know Mr. Manganiello's  
22 name until the detectives provided him with  
23 that name?

24 MR. ZUCKERMAN: Object to form.



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1           A. I don't know if Mr. Booth -- I  
2 can't recall as I sit here whether  
3 Mr. Booth said that he didn't know  
4 Manganiello by name and only by sight, or  
5 if he knew what his name was. So, I don't  
6 know the answer to your question.

7           Q. Did you ever meet with Mr. Booth?

8           A. I believe Mr. Booth testified at  
9 trial.

10          Q. Did you ever go over Mr. Booth's  
11 statement with him prior to his testimony  
12 at trial?

13           MR. ZUCKERMAN: Object to form.

14          A. If he testified at trial I would  
15 have gone over his statement with him  
16 beforehand.

17          Q. Let's take a step back to  
18 Mr. Damon. What role, if any, did  
19 Mr. Parker play in bringing Mr. Damon to  
20 your attention?

21          A. I don't remember if he had any  
22 role in it.

23          Q. What role, if any, did  
24 Mr. Agostini play in bringing Mr. Damon to



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1 your attention?

2 A. Well, Agostini had --

3 MR. ZUCKERMAN: Object to the form  
4 of that question.

5 Q. If any?

6 A. Detective Agostini's role would  
7 have been at some point Terrance Alston  
8 relays information about this individual  
9 with the gun, even though he was called  
10 something different, Baker or something at  
11 the time Detective Agostini first makes a  
12 report of that information.

13 At some point I would think either  
14 Detective Agostini, Detective Parker, and  
15 Mr. Alston, in some combination, found out  
16 that the Baker person was in fact Mark  
17 Damon. And I don't know who contacted him  
18 to bring him in, but he was contacted.

19 Q. Did Mr. Damon -- what, if  
20 anything, did Mr. Damon say to you when you  
21 met with him?

22 MR. ZUCKERMAN: Object to form.

23 A. I think I met with him on more  
24 than one occasion. I believe the first



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1 meeting, although I do not have a  
2 recollection of the exact contents of the  
3 conversation, it was in sum and substance  
4 about Manganiello, him giving Manganiello a  
5 gun.

6 Sometime between that conversation  
7 and him being called as a witness at trial,  
8 he had in some fashion recanted his  
9 statement. And at that point that  
10 information was turned over to  
11 Mr. Manganiello's attorney, and I believe  
12 Mr. Damon was available for  
13 Mr. Manganiello's attorney to put on the  
14 stand. But, if I'm correct, we both  
15 elected not to put Mr. Damon on the stand.

16 Q. When you say Mr. Damon recanted,  
17 what, if anything, did he say?

18 A. It's hard for me to say  
19 specifically what he said, but the one  
20 thing I'm confident is, what he was telling  
21 me before I put him on the stand before  
22 trial was materially different from what he  
23 said in the past.

24 Q. Did you represent to the Court



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1 that he was a liar and could not be put on  
2 the stand?

3 MR. ZUCKERMAN: Object to form.

4 A. I made a representation to the  
5 Court that the witness was now saying  
6 something different than his original  
7 statement, and I then turned him over to  
8 the defense.

9 Q. And by "different," did he  
10 indicate to you that he had made up the  
11 story about selling or providing  
12 Mr. Manganiello with a gun?

13 A. I don't remember what the  
14 differences were, but it was significant  
15 enough for me not to want to put him on the  
16 stand because I was not about to suborn  
17 perjury. I don't know.

18 And I can tell you that from what  
19 I remember about Mr. Damon, although it's  
20 not very much, I have a distinct impression  
21 with me still that he was significantly  
22 younger than Mr. Alston. That he was not  
23 thrilled about having to be a witness.

24 And even as I sit here today, I



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1 don't know if it was Mr. Damon's last  
2 statement that was the truth, or  
3 Mr. Damon's first statement that was the  
4 truth. But he could not be relied upon and  
5 put on at trial.

6 Q. Did you become aware of a  
7 statement provided by a gentleman named Sal  
8 Miro?

9 A. I don't know if Mr. Miro was my  
10 witness, not a witness, or defense witness  
11 at trial. I remember hearing the name.

12 Is he the other man in the pizza  
13 store?

14 Q. I'll show you what was marked  
15 previously dated 12/20/07 as Exhibit Number  
16 21. I'll show it to your counsel and show  
17 it to you.

18 MR. ZUCKERMAN: You said Exhibit  
19 21?

20 Q. 21.

21 A. Okay.

22 Q. Have you seen Exhibit 21 before?

23 A. Yes, during the pendency of the  
24 case.

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1 Q. And did you place any emphasis --  
2 strike that.

3 What role, if any, did this  
4 statement play in your decision to commence  
5 the prosecution and continue it against  
6 Mr. Manganiello?

7 A. Really this statement wouldn't  
8 have factored that heavily into the  
9 decision-making process. The prosecution  
10 in this case was based upon, like I said,  
11 the witnesses who were present at the scene  
12 that day in conjunction with Mr. Alston.

13 Q. When you say "not factor heavily,"  
14 did this statement play a factor, for you  
15 at least, in linking how Mr. Agostini came  
16 into contact with Mr. Tartone and in turn  
17 Mr. Booth?

18 A. No. And this DD5 is labeled a  
19 reinterview indicating that Mr. Miro had  
20 spoken to somebody beforehand. I still  
21 don't have -- I don't know how the police  
22 got to the individuals in the pizza shop, I  
23 don't know.

24 Q. Did this DD5, Exhibit Number 21,



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1 play a role in your commencing the  
2 prosecution or provide some link that you  
3 believed established Mr. Manganiello was  
4 involved in the shooting of Albert Acosta?

5 MR. ZUCKERMAN: Object to form.

6 Q. Let me rephrase it.

7 Did Exhibit 21 provide some link  
8 that caused you to believe that Anthony  
9 Manganiello was involved in the shooting of  
10 Albert Acosta?

11 MR. ZUCKERMAN: Object to form.

12 A. No. Is it evidence I would have  
13 liked to have used against  
14 Mr. Manganiello? Yes. Does this evidence  
15 prompt me to believe that there was enough  
16 to arrest or charge Mr. Manganiello of this  
17 homicide? Not based on this statement  
18 alone.

19 Q. I'm not asking you if it's based  
20 on this statement alone. I'm asking you if  
21 this statement, in conjunction with the  
22 other statements that you were provided  
23 with, caused you to have some faith that  
24 what you were being told by Mr. Tartone and



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1       Mr. Booth was true?

2                    MR. ZUCKERMAN: Object to form.

3               A. Yes, and that it's consistent with  
4               what they're saying. But, again, it's not  
5               something that was relied upon heavily I  
6               would say.

7               Q. Were you ever made aware that  
8               Mr. Miro stated he never said anything that  
9               is contained in Exhibit 21?

10               MR. ZUCKERMAN: Object to form.

11               A. As I said before, I don't know if  
12               Mr. Miro testified as a defense witness at  
13               trial, and if he did, I'm sure that's what  
14               he said. But as I sit here today, I don't  
15               remember that.

16               Q. Do you have a memory one way or  
17               another of being informed that Mr. Miro  
18               never made any of the statements contained  
19               in Exhibit 21 to Detective Agostini?

20               A. No.

21               Q. By the way, what happened to the  
22               tests for the gunshot residue that were  
23               performed on Mr. Manganiello's hands and  
24               jacket?



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1                   what happened to the reports?

2                   MR. ZUCKERMAN:  of the test  
3                   results?

4                   Q.  Correct.

5                   A.  Actually, those reports I think  
6                   were turned over to counsel.

7                   Q.  Were any of them ever missing,  
8                   were either of them missing?

9                   A.  I don't know if they were missing  
10                  and we were able to get other copies of  
11                  them from the labs, but there was -- that  
12                  information was definitely provided to  
13                  counsel.  Everybody was well informed of  
14                  that.

15                  The initial responses were  
16                  probably with the rest of the police  
17                  folder, but I think everybody had copies of  
18                  them in the end.

19                  Q.  Did you have any difficulty  
20                  getting any of the documents from the  
21                  Police Department in this case?

22                  MR. ZUCKERMAN:  Object to form.

23                  Q.  In the -- did you have any  
24                  difficulty receiving or getting a hold of



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1 police documents say from the crime lab  
2 concerning the prosecution of Anthony  
3 Manganiello?

4 MR. ZUCKERMAN: Object to form.

5 A. The difficulty in this was -- when  
6 the case went to trial ultimately the  
7 police reports that I was working from were  
8 furnished back to me by the defense. So,  
9 if I was calling a lab without a voucher or  
10 a report in front of me that gave me a  
11 number with which to give reference to,  
12 yeah, they would have given me a hard  
13 time. We can't find this or that. That  
14 was one of the difficulties.

15 Q. Were there any documents that were  
16 not provided to defense counsel until the  
17 last day of trial?

18 A. I don't remember.

19 Q. You can take a look at what I'll  
20 represent is the trial testimony, page 671,  
21 and see if this refreshes your  
22 recollection.

23 A. okay. I read it.

24 Q. Does this refresh your



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1       recollection as to whether there were any  
2       documents from the crime scene department  
3       which were not provided to you or to the  
4       defense counsel until the last day of  
5       trial?

6           A.    Well, that would have been my  
7       fault, that's when I obtained them. I  
8       don't know in the grand scheme of what you  
9       showed me if this was in fact the last day  
10       of trial. Actually, it was the last day of  
11       the People's case when everything would  
12       have been -- my obligation is to turn stuff  
13       over well in advance of trial.

14           However, the key moment in time is  
15       when the People are about to rest if  
16       something is not turned over. That's what  
17       would spark adverse inferences. So this is  
18       probably the maximum cut-off of that  
19       happening to me.

20           Q.    My question really is, were there  
21       any documents that you didn't have to turn  
22       over to the defense until the last day of  
23       the People's case?

24           A.    Yes, that would have been the



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1        crime scene report and photos.

2            Q.    And is that unusual to not receive  
3        these, these type of documents in a  
4        homicide case, until the last day of the  
5        People's case?

6            A.    Sir, trying to try a homicide case  
7        without a police folder is a very unusual  
8        circumstance. This is not ideal by  
9        anybody's standard.

10            MR. JOSEPH:    Can you mark this as  
11                5.

12

13                (Scaccia Exhibit 5, HANDWRITTEN  
14        NOTES, was marked for  
15        identification.)

16

17            Q.    I'll show you what has been marked  
18        as Exhibit 5, and ask you if you recognize  
19        this document.

20            A.    It appears to be handwritten notes  
21        of either a crime scene detective or ESU  
22        detective who responded to the scene.

23            Q.    And when you say "responded to the  
24        scene," are we talking about the Albert



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1       Acosta homicide scene?

2           A.    Yes, I'm sorry.

3           Q.    And is this one of the documents  
4        that you received on the last day of the  
5        People's case?

6           A.    I mean --

7           Q.    If you can look at the fax track  
8        it may refresh your recollection.

9           A.    It appears to match the  
10       description of the type of documents that I  
11       made a record about at trial. Without  
12       seeing the rest of the typed crime scene  
13       report and the photos, I don't know, but I  
14       would say for all intents and purposes that  
15       this is one of the documents.

16           Q.    And would -- does that document  
17       contain any information which contradicted  
18       any of Mr. Agostini's testimony about  
19       Mr. Manganiello being evasive?

20           MR. ZUCKERMAN: Object to form.

21           A.    No.

22           Q.    Did Mr. Agostini testify that  
23       Mr. Manganiello told him he didn't remember  
24       what his address was?



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1                   MR. ZUCKERMAN: At the criminal  
2                   trial?

3                   Q. At the criminal trial.

4                   MR. ZUCKERMAN: If you remember.

5                   A. At some point during the  
6                   interaction during the course of the day  
7                   when Mr. Manganiello is back at the  
8                   precinct, he was being -- I don't  
9                   necessarily want to say belligerent, but  
10                   uncooperative as far as giving over  
11                   information that would be considered  
12                   pedigree information.

13                   At some point he does speak to  
14                   them and they had a conversation about, as  
15                   I said earlier, about the cut on his hand.  
16                   I think he said he was moving a treadmill  
17                   that morning and cut himself. So at some  
18                   point there is a dialogue that opens, but  
19                   originally he is like, my number is  
20                   unlisted, and I don't have to tell you my  
21                   name, sort of response.

22                   So, no, this does not indicate  
23                   that he was -- it's not inconsistent with  
24                   Detective Agostini.



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1 Q. well, you were not present during  
2 this conversation between Mr. Agostini and  
3 Mr. Manganiello; correct?

4 A. NO.

5 Q. So what you just testified to is  
6 what Mr. Agostini told you, correct, or  
7 testified in some form; correct?

8 A. well, which is exactly what you  
9 were asking me about whether this is  
10 inconsistent with what Detective Agostini  
11 was saying Mr. Manganiello is doing. No,  
12 it's not.

13 Q. Was Exhibit 5 turned over to the  
14 defense after Mr. Agostini had left the  
15 stand?

16 A. Yes.

17 Q. At the criminal trial?

18 A. Yes, but Detective Agostini would  
19 have been subject to recall at any time  
20 defense wanted him.

21 Q. And does Exhibit 5 indicate that  
22 approximately 12:25 p.m. on February 12,  
23 2001, he provided detectives with his  
24 address and Social Security number?



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1 A. I don't know if the detective who  
2 wrote that got that from Mr. Manganiello's  
3 mouth or his identification in his wallet.

4 Q. Okay. Does Mr. Manganiello's  
5 address and Social Security number appear  
6 on Exhibit Number 5?

7 A. Yes, it does.

8

9 (Scaccia Exhibit 6, 911 TAPE, was  
10 marked for identification.)

11

12 Q. Do you recognize the -- I'll show  
13 you what has been marked as Exhibit Number  
14 6. Do you recognize any of the writing on  
15 the outside of the tape?

16 A. No.

17 Q. Can you put number six in and play  
18 it and I'll ask you after you listen to it  
19 if you recognize what this tape is.

20

21 (At this time a 911 tape was  
22 played.)

23

24 Q. Ma'am, did you have an opportunity



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1 to listen to what we have marked here as  
2 Exhibit 6?

3 A. Yes.

4 Q. Do you recognize that?

5 A. Yes. Those are 911 transmissions  
6 that were prepared in conjunction with this  
7 case. The first, I think, two calls  
8 pertain to a domestic incident not  
9 involving the death of Albert Acosta, and  
10 the other following ones were from  
11 Mr. Cobb, the witness on this case, and one  
12 of the Parkchester bosses I believe.

13 Q. And from where did you receive  
14 this tape?

15 A. The Police Department.

16 Q. And was this something that you  
17 understood to be made and kept in the  
18 ordinary course of their business?

19 A. Yes.

20 Q. And, by the way, after listening  
21 to the tape, did every single call that  
22 reported the shooting identify the victim  
23 as a Parkchester security officer?

24 MR. ZUCKERMAN: Object to form.

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1 Q. I'll rephrase it.

2                   After listening to Exhibit 6, did  
3                   every call to 911 which reported the  
4                   shooting of the victim, identify him as a  
5                   Parkchester security officer?

6                   MR. ZUCKERMAN: Object to form.

7                   A. Well, I believe Cobb says -- colon  
8                   obviously says one of our men is down, but  
9                   he doesn't know what he is down from. And  
10                  if memory serves me correctly, they were  
11                  trying to notify Acosta to respond to  
12                  Acosta's body not knowing he was down.

13                  And Mr. Cobb says at one point,  
14                  it's a security officer and then he says, I  
15                  don't know if it's police or Parkchester, I  
16                  didn't go over to the body. So to that  
17                  extent you're correct.

18                  Q. By the way, on this call did  
19                  Mr. Cobb ever indicate to the police that  
20                  he heard shots?

21                  A. Not in a direct response, but he  
22                  talks about hearing shots while he's  
23                  waiting on hold.

24                  Q. Did he ever say he saw a gentleman



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1 walk out of the basement after he heard  
2 shots, did he ever tell the police that in  
3 the 911 tape?

4 A. He was never asked that. No, he  
5 doesn't volunteer it.

6 Q. At any point did you become aware  
7 that -- strike.

8 At any point did you become aware  
9 that Mr. Manganiello was with Police  
10 officer Rodriguez, Police Officer Ortiz and  
11 Sergeant Rhodes while at 1700 Metropolitan  
12 Avenue the morning prior to Mr. Acosta's  
13 body being found?

14 MR. ZUCKERMAN: Object to form.

15 A. If that's with regard to the  
16 domestic call that's reflected on that,  
17 that's very possible. I don't remember if  
18 it was Manganiello or Acosta that responded  
19 to that call but they were there along with  
20 NYPD.

21 Q. Let me show you Exhibit 6 dated  
22 12/19/07.

23 A. okay.

24 Q. Have you ever seen Exhibit 6 prior



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1 to today?

2 A. Yes, during the preparation of  
3 this trial.

4 Q. Did you ever see Exhibit Number 6  
5 prior to the point in time that the case  
6 was presented to the grand jury against  
7 Mr. Manganiello?

8 A. Most probably, yes.

9 Q. Do you have a recollection of  
10 Mr. Manganiello being in the company of two  
11 police officers at the point while he was  
12 at 1700 Metropolitan Avenue?

13 A. Earlier in the morning I have  
14 reports of him being present at an  
15 apartment within 1700 Metropolitan Avenue  
16 in the company of police officers.

17 Q. And do the reports also indicate  
18 that Mr. Manganiello left with the police  
19 officers?

20 A. He left that apartment. They  
21 don't say where he goes. They looked in  
22 the apartment, everything seemed to have  
23 calmed down and the Parkchester cop left is  
24 all it says. So where he went, I don't



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1 know.

2 Q. Is there an indication in the next  
3 to last sentence that the Parkchester  
4 police and NYPD police left at the same  
5 time, left together?

6 A. It says they all left and the  
7 Parkchester cop left. So, yes, I guess  
8 they left at or about the same time.

9 Q. In other words, was officer  
10 Rodriguez ever called to testify before the  
11 grand jury?

12 A. No.

13 Q. Was Officer Rodriguez's full name  
14 ever provided to the defense -- to  
15 Mr. Manganiello's defense attorney?

16 A. I have no idea.

17 Q. Was there ever a request that  
18 officer Rodriguez testify before the trial,  
19 during Mr. Manganiello's trial?

20 A. For the defense?

21 Q. Correct.

22 A. If he wanted him to testify he  
23 could have called him.

24 Q. Did he ever ask that this officer



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1 be produced at trial?

2 A. I don't remember him asking me and  
3 I don't know if he asked the Court to  
4 subpoena him.

5 Q. Did Mr. Ortiz ever testify at  
6 trial, officer Ortiz?

7 A. I don't recall.

8 Q. Did Officer Ortiz ever testify  
9 before the grand jury?

10 A. No.

11 Q. Did Sergeant Ross ever testify  
12 before the grand jury?

13 A. No.

14 MR. JOSEPH: I believe that is all  
15 I have.

16 (Time noted: 4:13 p.m.)

17

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CHRISTINE SCACCIA

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1  
2 STATE OF NEW YORK )  
3 )  
4 COUNTY OF )  
5  
6

7 I, CHRISTINE SCACCIA, hereby certify  
8 that I have read the pages of the foregoing  
9 testimony of this deposition and hereby certify  
10 it to be a true and correct record.

11  
12  
13  
14 -----  
15 CHRISTINE SCACCIA

16  
17  
18  
19  
20 Sworn to before me this  
21 \_\_\_\_ day of \_\_\_\_\_, 2008.  
22  
23

24 -----

